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ERIC LAMORTE
LAMORTE & ASSOCIATES
P.O. BOX 434
YARDLEY, PA 19067

EXAMINER

VAN BRAMER, JOHN W

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/041,959
Filing Date: January 10, 2002
Appellant(s): FRAVEL, KEVIN D.

Eric A. LaMorte
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 10, 2008 appealing from the Office action mailed September 5, 2007.

(1) Real Party in Interest

- The Real Party of Interest is the applicant Kevin Fravel.

(2) Related Appeals and Interferences

- The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

- The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

- No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

- The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

- The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

- The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,905,246

Fajkowski

5-1999

(9) Grounds of Rejection

- The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3; 5-10 and 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Fajkowski (U.S. Patent Number: 5,905,246).

Claim 1: Fajkowski discloses a method, comprising the steps of:

- a. Providing a database. (Col 23, line 20 through Col 24, line 10)
- b. Registering manufacturers who provide electronic coupons for their manufactured goods in said database, wherein each registered manufacturer is provided with a manufacturer's account. (Col 23, lines 20-64)
- c. Registering retailers who sell said manufactured goods in said database, wherein each registered retailer is provided with a retailer's account. (Col 23, lines 20-64)
- d. Registering consumers who may buy said manufactured goods in said database, wherein each registered consumer is provided with a numbered consumer account and an account card that contains said numbered consumer account. (Col 24, lines 11-53; and Col 29, lines 45-67)

- e. Providing a website where said registered manufacturers post electronic coupons and said registered consumers select from said electronic coupons, wherein said electronic coupons selected by said registered consumers are assigned to consumer accounts for those consumers in said database. (Col 5, lines 14-38; and Col 6, lines 20-43; Col 29, lines 45-67)
- f. Establishing a telecommunications link between a registered retailer and said database when a registered consumer purchases a product at a registered retailer and submits said account card at checkout, wherein data is exchanged through said link that determines if the consumer has previously selected an electronic coupon for said product at said website. (Col 16, lines 11-34)
- g. Discounting said product at the registered retailer by said coupon if said electronic coupon for said product is present in the consumer account for that consumer. (Col 4, lines 15-63)

Claim 2: Fajkowski discloses the method according to claim 1, wherein said step of establishing a telecommunications link includes providing a card reading machine at each of said registered retailers, wherein each said card reading machine reads a consumer account from said account card and queries said database regarding selected electronic coupons in that consumer account. (Col 22, lines 10-48; and Col 23, line 65 through Col 24,

line 10)

Claim 3: Fajkowski discloses the method according to claim 1, further including the step of charging each registered manufacturer who posts an electronic coupon on said website. (Col 23, lines 20-64)

Claim 5: Fajkowski discloses the method according to claim 1, further including the step of reimbursing registered retailers for electronic coupons redeemed using consumer account cards. (Col 23, lines 20-64)

Claim 6: Fajkowski discloses a method comprising the steps of:

- a. Providing a website where manufacturers post electronic coupons and consumers select posted electronic coupons. (Col 6, lines 20-43; and Col 29, lines 45-67)
- b. Providing a database that stores electronic coupons selected by consumers establishing a telecommunications link between a retailer and said database when a consumer purchases a product from that retailer. (Col 125, lines 10-41; and Col 23, lines 20-64)
- c. Downloading data regarding an electronic coupon selected by a consumer from said database to said retailer over said link if said consumer is purchasing a product for which said consumer has previously selected an electronic coupon at said website, wherein said retailer can honor said

coupon. (Col 15, lines 10-41; Col 16, lines 12-50; Col 17, line 22 through Col 18 line 25; and Col 23, lines 20-64)

Claim 7: Fajkowski discloses the method according to claim 6, further including the step of registering consumers who want to select electronic coupons from said website and providing each registered consumer with a card. (Col 3, line 51 through Col 4, line 14)

Claim 8: Fajkowski discloses the method according to claim 7, wherein said step of establishing a telecommunications link includes the sub-steps of: providing a card reading machine capable of exchanging data with said database; and scanning said card of a consumer through said card reading machine. (Col 16, lines 12-34)

Claim 9: Fajkowski discloses the method according to claim 8, wherein said step of downloading data includes the sub-steps of: downloading data regarding an electronic coupon to said card reading machine; exchanging said data between said card reading machine and a cash register; comparing said coupon to products being purchased by a consumer; and deducting a coupon value if a coupon corresponds to a product being purchased. (Col 125, lines 10-41; Col 16, lines 12-50; Col 17, line 22 through Col 18 line 25; and Col 23, lines 20-64)

Claim 10: Fajkowski discloses the method according to claim 6, further including the step of charging each manufacturer who posts an electronic coupon on said website. (Col 23, lines 20-64)

Claim 12: Fajkowski discloses the method according to claim 6, further including the step of reimbursing retailers for electronic coupons redeemed. (Col 23, lines 20-64)

Claim 13: Fajkowski discloses the method according to claim 6, further including the step of registering manufacturers who provide electronic coupons for their products in said database, wherein each registered manufacturer is provided with a manufacturer's account and enabling only registered manufactures to post electronic coupons at said website. (Col 23, lines 49-64)

Claim 14: Fajkowski discloses the method according to claim 13, further including the step of registering retailers who sell said products of said registered manufacturers, wherein each registered retailer is provided with a retailer's account and enabling only registered retailers the ability to redeem said electronic coupons. (Col 23, lines 49-64)

Claim 15: Fajkowski discloses the method according to claim 13, further including the step of registering consumers, wherein each registered consumer is provided with a numbered consumer account and an account card that contains said numbered consumer account. (Col 3, line 51 through Col 4, line 14)

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fajkowski (U.S. Patent Number: 5,905,246).

Claims 4 and 11: Fajkowski discloses the method according to claims 3 and 6 respectively. Additionally Fajkowski discloses that manufacturers are registered (Col 23, lines 49-64) and redemption charges are presented to the manufactures (Col 23, lines 20-64). While Fajkowski does not specifically state that manufacturers are charged based upon the number of electronic coupons that are distributed to customers, it is disclosed that the operator of the system is a "service provider" (Col 23, lines 49-64) and that manufactures

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typically spend advertising dollars in order to market coupons to the public (Col 1, lines 25-64). Additionally, it is well known that providers of marketing services often charge on based upon the number of customers reached.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to charge manufactures based upon the number of coupons that were downloaded by the services customers. The rational for charging in this manner is to directly correlate the manufacturer fee with the number of coupons provided and thereby provide the manufacturer with statistically measurable results for each type of coupon provided.

(10) Response to Argument

- Response to arguments directed towards the 35 USC 102(b) rejection of Claim 1

The applicant argues that the Fajkowski reference discloses a system for converting paper coupons into an electronic format while the present invention is a paperless system where coupons never need to be printed.

The examiner agrees that the Fajkowski reference does disclose a system that provides for converting paper coupons into electronic format. However, the Fajkowski reference also discloses the claimed paperless system.

Fajkowski discloses in Col 29, lines 45-67 that coupons are provided on an Internet site which allows registered users to browse coupons and choose which coupons they desire. The cited paragraph further discloses that the selected coupons can be transmitted directly to the coupon card, the hard

drive of the Internet accessing terminal or other memory storage space regardless of whether the terminal is a computer, cable box or other terminal. Thus the printing or scanning of paper coupon is not required by the Fajkowski disclosure.

The applicant argues that Fajkowski does not disclose the use of a website where manufactures post electronic coupons as required by the the claimed limitation of "providing a website where said registered manufacturers post electronic coupons and said registered consumers select from said electronic coupons, wherein said electronic coupons selected by said registered consumers are assigned to consumer accounts for those consumers in said database". However, Fajkowski specifically discloses registered users browsing an internet site and selecting desired coupons in Col 29, lines 59-62 which states "The software will also allow the user to browse the coupons available on the Internet site and categorize and store the coupons retrieved from the Internet in coupon card 1 in the same categories as exist on the coupon card 1." The applicant admits on page 6 of the Appeal Brief that Fajkowski discloses in Col 6, lines 22-23 that "coupons can be downloaded from the internet via the disk drive of a conventional computer", but asserts that this disclosure means a coupon scanned into a conventional computer can be sent as an attachment to the coupon card assembly and that the coupon need not be scanned directly into the coupon card assembly. The examiner agrees that Fajkowski discloses in Col 6, line 20-25 that coupons

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can be downloaded from the Internet, but fails to understand the applicants assertion that this means the coupon is scanned into a conventional computer and send as an attachment to the coupon card assembly. If the coupon is downloaded from the Internet and the cited section states, the disclosed conventional computer need not perform any scanning function.

The applicant argues that Col 29, lines 45-67 do not disclose a website where electronic coupons are posted and selected. In an attempt to support this statement the applicant states that the full paragraphs of the cited section are reproduced in the Appeal Brief. The examiner notes that the applicant has actually reproduced Col 23, lines 20-64 and not Col 29, lines 45-67. Col 29, lines 45-67 recite:

Another method of electronically transmitting coupons is through an Internet coupon card service by means of the adapter illustrated in FIGS. 19a and 29b. The adapter will be capable of being inserted into a conventional 3.5" floppy disk drive and transferring information stored on the adapter to coupon card 1. While the embodiment illustrated is an adapter compatible with a 3.5" floppy disk drive, the adapter could be formed to fit any conventional disk drive. Software may also be readily adapted to render receiving coupons over the Internet more user friendly by allowing the coupon card owner to navigate the coupon card Internet service. The software will provide the means for recording coupon card 1's identifying card number and verifying the person receiving coupons is registered with the provider of the coupon card services. **The software will also allow users to browse the coupons available on the Internet site and categorize and store the coupons retrieved from the Internet** in coupon card 1 in the same categories as exist on coupon card 1. Alternatively, the coupons may be downloaded to the hard drive of the

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Internet accessing terminal or other memory storage space (regardless of whether the terminal is a computer, cable box or other terminal) and be transferred at a later date to coupon card 1.

In contrast to the applicants argument that Fajkowski clearly does not use electronic coupons, the actual recitation of the cited paragraph clearly discloses such a feature.

- Response to arguments directed towards the 35 USC 102(b) rejection of Claim 6

The applicant argues that Fajkowski does not disclose the use of a website where manufacturers post electronic coupons as required by the limitation “providing a website where manufacturers post electronic coupons an consumers select posted electronic coupons. The applicant relies on the rational that has been previously stated in the arguments to Claim 1. Thus the examiners responses to the arguments set forth regarding Claim 1 are relied upon to overcome the applicants arguments in regard to claim 6. Fajkowski clearly discloses the use of a website where manufactures post electronic coupons in Col 29, lines 45-67.

- Response to arguments directed towards the 35 USC 103(a) rejection of Claims 4 and 11.

The applicant argues that Fajkowski does not disclose charging a manufacturer for posting electronic coupons on the database because in the Fajkowski system, manufacturers do not post electronic coupons. However, Fajkowski specifically discloses that electronic coupons are posted to an Internet site in Col 29, line 45-67 thus the rational used by the examiner in formulating the 35 USC 103(a)

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rejection to teach the limitation of the claim that “manufactures are charged based upon the number of posted coupons that are selected by consumers” is enabled by the Fajkowski patent. The examiner notes that no argument has been set forth disputing the examiner rational that such a payment methodology is well known in the art.

(11) Related Proceeding(s) Appendix

- No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

John W. Van Bramer/JVB/
Examiner, Art Unit 3622

/Eric W. Stamber/
Supervisory Patent Examiner, Art Unit 3622

Conferees:

James Myhre /J.W.M./
Supervisory Patent Examiner, Art Unit 3688

Eric Stamber/E. W. S./
Supervisory Patent Examiner, Art Unit 3622